



FACT SHEET: SB393

SB393 would significantly expand the number of cities and towns that can require prisoners to pay the municipality for the costs of their own incarceration. **Because other states have found that such programs have unintended costs that outweigh any benefits, Michigan should conduct a cost-benefit analysis before expanding its existing inmate fee statutes.**

The experience of Massachusetts, where the legislature created a special commission to conduct a thorough review of the impact of proposed jail inmate fees, offers particularly useful guidance. **The Massachusetts commission concluded that adding new fees was not worth it because it “will lead to a host of negative and unintended consequences,” and that additional fees would actually increase the costs to taxpayers by creating new fee collection costs and increasing recidivism.**

BACKGROUND ON CURRENT LAW IN MICHIGAN

Michigan has two statutes authorizing county and municipal jails to charge prisoners for the costs of their incarceration or other expenses:

- The Prisoner Reimbursement to the County Act (PRCA), M.C.L. § 801.82, et. seq., passed in 1983, provides legal authority for counties to seek reimbursement from prisoners housed in county jails. Counties are allowed but not required to seek reimbursement.
- The Inmate Reimbursement to Municipalities Act (IRMA), M.C.L. § 801.311, et. seq., passed in 2006, provides legal authority for cities, villages, or townships located within a county that has a population of more than 500,000, to seek reimbursement from the municipalities' prisoners. Municipalities are allowed but not required to seek reimbursement. At present, IRMA only applies to municipalities in Wayne, Kent, Macomb, and Oakland counties.

SB 393 would allow all municipalities to seek reimbursement, not just those in larger counties. This would represent a significant expansion of IRMA's jail inmate fees program.

Before expanding IRMA, Michigan should study whether the existing PRCA and IRMA fees are creating a net benefit to taxpayers: i.e., how much revenue is collected under PRCA/IRMA, what costs are incurred for implementation and collection, what impact PRCA/IRMA fees have on reentry and recidivism, and whether PRCA/IRMA fee collection draws revenue away from efforts to collect other criminal justice fines and fees.

MASSACHUSETTS INMATE FEES COMMISSION STUDY PROVIDES A USEFUL EXAMPLE

BACKGROUND ON THE CREATION OF THE MASSACHUSETTS COMMISSION

In 2010, a state representative in Massachusetts proposed legislation authorizing county sheriffs to charge jail reimbursement fees to inmates. The proposed legislation shared much in common with existing statutory authority for fee collection in Michigan.

In response, many other representatives raised questions about the practicalities of collecting such fees, the impact of such fees on community reentry and recidivism, and the actual amount of revenue likely to be collected. The bill was amended to call for a study of these issues before any new fees could be instituted. Further legislation then set up a special state commission to carry out this study, which was completed in July 2011.

FINDINGS OF THE MASSACHUSETTS COMMISSION

The commission concluded that **“establishing additional inmate fees will lead to a host of negative and unintended consequences. Successful reentry, already a challenge, will become a greater challenge because additional fees will decrease the already limited savings and economic resources available to inmates upon release.”** The commission further concluded:

- “The commission believes that additional fees would increase the number of inmates qualifying as indigent, increase the financial burdens on the inmate and their family, and jeopardize inmates’ opportunities for successful reentry.” The commission noted that after Bristol County implemented an inmate fee collection program without legislative authorization, the number of indigent inmates in that county’s jail increased. Moreover, because more than half of male inmates are the primary source of financial support for their children before incarceration, fees will impact not only inmates but also their family members. The commission reported that released inmates often rely on funds transferred from their jail accounts to pay reentry-related costs such as securing housing, access to substance abuse/mental health programming, and educational opportunities, as well as regaining drivers’ licenses and paying other costs associated with imprisonment. Collection of inmate fees would thereby jeopardize reentry.
- “The commission believes that additional fees would increase the cost to taxpayers by creating a cost associated with implementing the fees and would likely increase recidivism rates.” Although estimates of the direct collection costs varied widely, the commission also noted the costs of recidivism. The commission cited a 2010 report by The Pew Charitable Trusts, finding that efforts to enforce unpaid criminal justice debts can be self-defeating because they have the effect of impeding reentry and reintegration into society.

Among the commission’s factual findings:

- About 80% of the sheriffs surveyed in the Massachusetts study evaluated pretrial detainees for indigency. In all but a few jurisdictions, **inmates had an average monthly balance below \$200** in their accounts. The commission noted that adding new inmate fees would increase the debt burden on a population that is uniquely unable to make payment on the fines and fees that already exist.
- Because the judicial system already relies heavily on defendant fees as sources of revenue, **increasing inmate fees would put jails “in competition for scarce resources,”** i.e., the limited amount of money that a particular individual can pay to various government agencies.
- The prospect of saving and accruing funds through participation in programming and work release is an incentive for good behavior. Eliminating or reducing such funds through fee collection would **interfere with these good incentives for inmates.**

PROPOSED AMENDMENT TO SB393

The ACLU supports the following amendment¹ to SB 393 to create an independent commission that would assess the costs and benefits of existing PRCA/IRMA fee collection programs and make recommendations regarding the future of such programs:

Section 12: There shall be a special commission to study the costs and benefits of inmate reimbursement programs authorized by the Inmate Reimbursement to Municipalities Act, MCL 801.311 *et. seq.*, and the Prisoner Reimbursement to the County Act, MCL 801.82 *et. seq.* The commission shall be appointed by the governor, and shall include representatives from law enforcement, the judiciary, reentry services, and leaders from the nonprofit and business community. The commission shall make a comprehensive study of inmate fees. The study shall include, but not be limited to, the types and amount of fees to be charged, including a daily room and board fee and medical co-pays; revenue that could be generated from the fees; the cost of administering and collecting the fees; the impact on the affected population; use of the collected fees by the respective sheriffs’ offices; method and sources of collecting the fees; impact on the prisoner work programs; waiver of the fees for indigents; exemptions from the fees for certain medical services; and forgiveness of the balance due for good behavior.

The commission shall report to the legislature the results of its investigation and study, and recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the senate and the house of representatives, who shall forward the same to the chairs of the house and senate ways and means committees and the senate and house chairs of the judiciary committee on or before January 1, 2013.

¹ This language is modeled after the language establishing the Massachusetts Commission. See Chapter 131, Section 177, of the Massachusetts Acts of 2010 (An Act Making Appropriations for the Fiscal Year 2011 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements (see House No. 4800) approved (in part) by the Governor, June 30, 2010).

